


City of Alexandria, Virginia

18
11-26-02

MEMORANDUM

DATE: NOVEMBER 20, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER 

SUBJECT: CONSIDERATION OF THE REVISED AFFORDABLE HOUSING POLICY

ISSUE: Consideration of the revised Affordable Housing Policy for the City.

RECOMMENDATION: That City Council approve the revised policy (Attachment I), which was approved by the Affordable Housing Advisory Committee on November 7, 2002.

BACKGROUND: In January 1993, City Council adopted an Affordable Housing Policy that established the Housing Trust Fund to receive contributions from developers to promote affordable housing in the City. Since that time, the only changes formally incorporated into the Affordable Housing Policy document have been the City's preference for on-site units rather than Housing Trust Fund contributions (incorporated in 1995), and the recent increase in the standard Housing Trust Fund contribution from \$0.50 to \$1.00 per gross square foot (incorporated in June 2002). However, over time, the 1993 policy document has become inconsistent with other policy documents, such as the Consolidated Plan for Housing and Community Development and the Affordable Housing Task Force report. In addition, the policies and procedures for the administration of the Affordable Housing Policy that have evolved over time have never been formally incorporated into the document.

In light of these factors, the Affordable Housing Advisory Committee has revised and updated the Affordable Housing Policy document to reflect more accurately the current policies, practices and procedures.

DISCUSSION: The attached revised Affordable Housing Plan document updates the policy to accomplish the following:

1. Limit the scope of the document to the administration of the Housing Trust Fund, and defer to the City's Consolidated Plan with regard to general housing goals.
2. Update the definition of affordable housing.
3. Reflect the establishment of City income limits and sales prices rather than the reliance on VHDA income limits and sales prices as the maximum limits applicable to Housing Trust Fund assistance or discounted set-aside units.
4. Incorporate changes adopted by Council in February 2001 to the description of the composition of the Committee.

5. Incorporate inclusions and exclusions to the policy, and procedures for addressing changes in SUP or site plan status, that have been developed over time.
6. Incorporate the goal of maintaining a minimum balance in the Housing Trust Fund, as reflected in Council's February 2002 adoption of the Affordable Housing Task Force report.
7. Amend language concerning the administration of discounted set-aside units to be consistent with revised guidelines that became effective in the spring of 2002, and include the current set-aside unit guidelines as an attachment.

Scope of the document. The 1993 Affordable Housing Policy included a lengthy section of background information, goals for the 1990s, and specific *policy objectives*. In order to avoid redundancy (and potential inconsistency over time) with the City's Consolidated Plan for Housing and Community Development, which is updated through annual Action Plans, the 2002 revision of the Affordable Housing Policy defers to the Consolidated Plan as the City's official housing policy document, and focuses solely on the administration of the Housing Trust Fund and the Affordable Housing Plan/set-aside unit process, and on the role of the Affordable Housing Advisory Committee.

Definition of affordable housing. Previously, the document defined affordable housing as housing that a household could afford with 30 % of income for rent or mortgage payments, and identified affordable housing options for certain income groups (50% of median and below, 50% to 70% of median, 71% to 100% of median). The revised document defines housing affordability as 30% of income for rent and 32% for mortgage payments (based on a current typical mortgage industry qualifying ratio). Under a new heading "Definition and Scope of Affordable Housing," the updated document refers to the City's desire to provide a broad range of affordable housing for households up to established City income limits, which are included in an attachment that can be changed as needed so that the document can be kept current.

City income limits and sales price. In the original document, although affordability is discussed for households up to 100% of median, the maximum income limit for homeownership assistance was tied to the Virginia Housing and Development Authority first-time homebuyer mortgage limits. Because those limits recently rose beyond what staff considers reasonable for the provision of homeownership assistance (new VHDA limits effective September 11, 2002, are \$86,900 for one and two persons, and \$100,600 for households of three or more persons), this document establishes as the City's maximum income limits the former VHDA limits, \$68,700 for one and two persons, and \$79,500 for three or more persons. These limits are contained in Attachment I to the document. The attachment also sets 60% of median income (currently \$52,200 for a family of four) as the maximum income level for assistance in rental projects. This is not intended to preclude mixed-income rental projects, but to establish the cutoff point for occupancy of units to be considered "affordable." Unlike the original document, the revised policy document places all income limits in the attachment, so that the attachment can be updated as limits change.

While the 1993 policy establishes the VHDA sales prices as the maximum sales prices for affordable set-aside units and for Housing Trust Fund assistance, the new policy reflects the City's decision to establish its own sales price limit. The City's current \$225,000 sales price limit is included in Attachment I along with the income limits.

Committee composition. The updated policy document includes changes adopted by ordinance in February 2001 to redefine the membership of the Affordable Housing Advisory Committee. The twelve voting members continue to represent the same interests as previously approved by Council, but in several instances the new language more clearly describes the type of expertise or background that is desired. For example, "employer" was changed, in response to the Committee's interest in having a major Alexandria employer, to specify "one representative of an employer in the City who employs at least 100 employees." The changes also eliminated references to representatives from the financial and legal "communities" in favor of the specific qualifications desired from each of these representatives.

Inclusions and exclusions. The original policy document says that it covers all new housing and/or commercial development. Early in the process, an administrative decision was made to cover only those residential developments consisting of five or more units. A subsequent decision was made to set an additional minimum threshold (generally applicable to non-residential properties) of 3,000 gross square feet, because certain by-right uses with less than this square footage do not require site plans and thereby are never considered for affordable housing plans and contributions. The minimum square footage threshold ensures that all projects of less than 3,000 square feet are treated equally. These minimum thresholds are now included in the revised policy document.

Exclusions from this policy include: religious institutions (including seminaries, convents, or monasteries); public parks and playgrounds; public and private schools; preschools within a church or school building; non-commercial facilities (including such ones as recreational facilities and community centers designed to serve a neighborhood or other such uses as approved by the City); libraries; homeless shelters; any residential project undertaken by the Alexandria Redevelopment and Housing Authority (ARHA) or an entity of which ARHA is a part, or any project in which 10% or more of the units are public housing units or other publicly-assisted units serving as replacement for public housing; and parking garages (other than garages attached to, or on the same lot with, individual residences and designed for use by a single household).

In addition, the policy document now reflects how expirations, extensions, and amendments to Special Use Permits (SUPs) and site plans are handled, as follows:

1. If a previously approved SUP or site plan expires, a re-application submitted after the expiration date will be treated as a new application.
2. If an applicant requests an extension of a previously approved SUP or site plan, the application for extension shall be exempt from Affordable Housing Policy review.

3. If an applicant submits minor changes (as determined by Planning and Zoning) to a previously approved SUP or site plan, the revised submission shall be exempt from Affordable Housing Policy review, unless it involves a change to a previously approved Affordable Housing Plan.
4. If an applicant submits major changes (as determined by Planning and Zoning) to a previously approved SUP or site plan that did not have an Affordable Housing Plan, the changes shall be forwarded to the Office of Housing for an Affordable Housing Policy review. If an Affordable Housing Plan is submitted, it shall be forwarded to the Affordable Housing Advisory Committee for review.
5. If an applicant submits major changes (as determined by Planning and Zoning) to a previously approved SUP or site plan that has an Affordable Housing Policy condition, the changes shall be forwarded to Office of Housing staff for review. If the changes involve an Affordable Housing Plan or have implications for an existing Affordable Housing Plan (e.g., there is a major change in the scope of the project that merits a change in the level of affordable housing to be provided), the issue shall be forwarded to the Affordable Housing Advisory Committee for review.

Minimum Housing Trust Fund balance. The policy document has been updated to include a statement that the Housing Trust Fund will be administered with a view toward maintaining a minimum balance of \$1.5 million, and that this minimum balance policy will be revisited on an annual basis by the Affordable Housing Advisory Committee and City staff, in order to maintain flexibility in managing the Fund and to ensure the longevity of the Fund. Council adopted this recommendation of the Affordable Housing Task Force, which originated from the Affordable Housing Advisory Committee, in February 2002.

Set-aside unit guidelines. The revised policy incorporates as an attachment the policies for the administration of set-aside units, including new resale provisions, that were adopted administratively, with the support of the Affordable Housing Advisory Committee and with notice to Council, in June 2002. The Office of Housing now has a 90-day exclusive referral period to forward qualified buyers to the developer of new set-aside units. The new resale guidelines remove the restriction to sell at VHDA's maximum sales price (currently \$213,000), but establish an alternative method for setting the resale price and sharing for existing housing the appreciation in value with the City. The guidelines for set-aside units are included as Attachment II of the revised policy. Previous references to the old guidelines in the body of the document have either been deleted or made consistent with the new guidelines.

ATTACHMENT: City of Alexandria Affordable Housing Policy, Revised November 2002

STAFF:

Mildrilyn Stephens Davis, Director, Office of Housing
Robert Eiffert, Deputy Director, Office of Housing

**CITY OF ALEXANDRIA, VIRGINIA
AFFORDABLE HOUSING POLICY**

Revised November 2002

A. LEGAL AUTHORITY

The authority for an affordable housing policy is found in Section 9.09 of the city Charter that establishes as one of the purposes of the Zoning Code to "preserve existing and facilitate the provision of new housing that is affordable to all segments of the community..."

In addition, Section 2.04.2 of the City Charter gives the City certain powers relative to community development and housing for low and moderate-income households. The City is authorized, in carrying out these powers, to use City, State, Federal or private funds.

B. PURPOSE

The purpose of this policy is:

1. To define affordable housing for the City of Alexandria;
2. To set forth goals and policies for the administration of the City's Housing Trust Fund.

The City's primary housing policy document is the Five-Year Consolidated Plan for Housing and Community Development. The Consolidated Plan contains the City's goals and objectives for affordable housing, as well as housing for the homeless and persons with special needs.

C. DEFINITION AND SCOPE OF AFFORDABLE HOUSING

The definition of affordable housing is housing that a household can afford without paying more than 30% of income for rent or 32% of income for mortgage payments.

The City wishes to achieve a broad range of affordable housing for households with incomes up to the established limits in Attachment I.

D. CONTRIBUTIONS TO THE CITY'S HOUSING TRUST FUND

The City of Alexandria supports a broadly-based Housing Trust Fund (HTF) that receives revenues primarily from developer contributions for the purpose of encouraging, increasing and maintaining affordable housing in the City. Additional monies for the Housing Trust Fund may come from community sources, including but not limited to City resources as approved by Council during the annual budget process, and community contributions. The actual dollar amounts required and percentages of the total to be raised from various sources will depend on the staff projections of monies available and required, and factors of fairness.

1. Sources of Funds

a. Development Fees

It shall be the City's policy that a standard charge of \$1.00 per gross square foot be paid to the Housing Trust Fund by developers for all new residential developments in the City of five units or more, and all new building area constructed, including additions to existing structures, if larger than 3,000 gross square feet, unless otherwise excluded (see exclusions below). In lieu of this charge, a residential developer may submit an Affordable Housing Plan proposing another means of meeting the affordable housing requirement, e.g., provision of on-site or off-site housing units, or a lesser fee in combination with affordable units, with or without receiving some form of incentive from the City. The City strongly encourages developers to provide affordable units, in lieu of a monetary contribution, whenever feasible. The total value of the housing benefit to be provided under an Affordable Housing Plan shall be at least equal to the monetary contribution that would be provided under the \$1.00 per gross square foot formula.

The contribution shall be paid at certificate of occupancy in the case of office, industrial, retail, hotel or rental apartment developments, and paid at sale to the end user in the case of sales housing. If the General Assembly so authorizes, this charge shall become mandatory; however, regardless of General Assembly action, this remains the City's standard to be negotiated by staff.

Exclusions from the Policy

Exclusions from this policy include religious institutions (including seminaries, convents, or monasteries); public parks and playgrounds; public and private schools; preschools within a church or school building; non-commercial facilities (including such ones as recreational facilities and community centers designed to serve a neighborhood or other such uses as approved by the City); libraries; homeless shelters; any residential project undertaken by the Alexandria Redevelopment and Housing Authority (ARHA) or an entity of which ARHA is a part, or any project in which 10% or more of the units are public housing units or other publicly-assisted units serving as replacement for public housing; and parking garages (other than garages attached to, or on the same lot with, individual residences and designed for use by a single household).

Expirations, Extensions and Amendments to Special Use Permits and Site Plans

Expirations, extensions and amendments to Special Use Permits (SUPs) and site plans will be handled as follows:

1. If a previously approved SUP or site plan expires, a re-application submitted after the expiration date will be treated as a new application and will be subject to review by Office of Housing staff for recommendation

of an Affordable Housing Policy condition. If an Affordable Housing Plan or changes to a previous Affordable Housing Plan are involved, the Plan will be forwarded to the Affordable Housing Advisory Committee for review.

2. If an applicant requests an extension of a previously approved SUP or site plan, the application for extension shall be exempt from Affordable Housing Policy review.
3. If an applicant submits minor changes (as determined by Planning and Zoning) to a previously approved SUP or site plan, the revised submission shall be exempt from Affordable Housing Policy review, unless it involves a change to a previously approved Affordable Housing Plan.
4. If an applicant submits major changes (as determined by Planning and Zoning) to a previously approved SUP or site plan that did not have an Affordable Housing Plan, the changes shall be forwarded to the Office of Housing for an Affordable Housing Policy review. If an Affordable Housing Plan is submitted, it shall be forwarded to the Affordable Housing Advisory Committee for review.
5. If an applicant submits major changes (as determined by Planning and Zoning) to a previously approved SUP or site plan that has an Affordable Housing Policy condition, the changes shall be forwarded to Office of Housing staff for review. If the changes involve an Affordable Housing Plan or have implications for an existing Affordable Housing Plan (e.g., there is a major change in the scope of the project that merits a change in the level of affordable housing to be provided), the issue shall be forwarded to the Affordable Housing Advisory Committee for review.

b. City Resources

On an annual basis in the context of the budget process, the Affordable Housing Advisory Committee and staff will consider recommending that the City allocate resources to the Housing Trust Fund.

c. Community Contributions

On an as-needed basis, the City may seek contributions from community entities such as churches, service organizations, business organizations and individuals.

d. Foundation and Grant Support

On an as-needed basis, the City may seek financial support from local, regional and/or national foundations or other grant-making organizations.

E. USE OF HOUSING TRUST FUND MONIES

1. General Goals

Proceeds from the Housing Trust Fund shall be used to address the following general goals:

- a. Preserve existing publicly-assisted housing opportunities for the benefit of current and future low-income Alexandrians;
- b. Provide assistance for the purchase and/or rental of housing units in accordance with the goals and actions set forth in this policy and in accordance with the City's Consolidated Plan for Housing and Community Development;
- c. Finance, in whole or part, the acquisition and/or rehabilitation of property when necessary to carry out items a or b above; or
- d. Finance other projects dedicated to the preservation or enhancement of affordable housing in Alexandria, and finance services which address the housing needs of low and moderate-income Alexandrians (including housing counseling, homeless shelters, and transitional housing programs).

2. Specific Uses of Funds

Monies from the Housing Trust Fund may be used for any purpose Council may approve, including but not limited to:

- a. Increase the stock of affordable sales housing in the City and support affordable homeownership programs.
 1. Support creative and innovative solutions to the provision of affordable sales housing
 2. Support construction
 3. Buy down mortgage rates or provide downpayment assistance for homeownership potential for households above 50% of median income who are income-eligible for VHDA assistance
 4. Provide funds to support the City's Homeownership Counseling Program
- b. Promote the availability of affordable rental housing in the City (including replacement of Resolution 830 units), in accordance with policies and provisions of the City's Consolidated Plan for Housing and Community Development.
 1. Support rehabilitation
 2. Reconfigure existing stock to meet current needs
 3. Support acquisition and/or construction of Resolution 830 replacement units
 4. Support the acquisition and/or construction of rental dwellings that will remain affordable for a period of not fewer than 20 years.

- c. Support homeless prevention, homeless shelter, and transitional housing programs.
 - 1. Intervention to assist those who are in affordable housing, but find themselves temporarily in a difficult situation.
 - 2. Training for tenants or homeowners on home maintenance, financial planning, etc.
 - 3. Support homeless shelter programs.
 - 4. Support transitional housing programs for City residents as needed.

In making recommendations for uses of the Housing Trust Fund, staff will first investigate all reasonable and appropriate state and federal funding alternatives that are not overly restrictive, and will also determine what City resources may be available within the approved budget.

3. Administrative Policies for Use of Housing Trust Fund Monies

- a. Housing Trust Fund monies will be used to provide homeownership opportunities for households with adjusted incomes that are within the City's limits (see Attachment I for current income limits). Additionally, sales prices of properties will not exceed the maximum sales price established by the City (see Attachment I for current sales price limits).
- b. The City reserves the right to place a second trust against an affordable housing unit (i.e. a unit purchased with HTF downpayment/closing cost assistance or a discounted set-aside unit) for:
 - the amount of down payment/closing cost assistance provided, and
 - the difference between the market sales price or appraised value and the below market sales price (i.e. the discount amount).
- c. The City has developed procedures designed to ensure that, for an affordability period of 15 years, set-aside units remain affordable, upon resale, to income eligible applicants. The policy regarding resale of set-aside units is attached (Attachment II). The policy will be reviewed periodically to determine whether changes are warranted.
- d. Whenever possible, at least 50% of the units assisted must contain two or more bedrooms.
- e. To be eligible for the affordable units, at least one member of the household must live or work in Alexandria. In units associated with mixed-use developments, first priority shall be for families with at least one member who works within the mixed-use development.
- f. The City's downpayment/closing cost assistance may be used to purchase a discounted unit.

- g. Other funding provided by the Housing Trust Fund may be provided as a grant or a loan, with terms of any loan to be determined by City staff, in consultation with the Affordable Housing Advisory Committee.
- h. Each application for funding will be considered on a case-by-case basis, however, the Housing Trust Fund will be administered with a view toward maintaining a minimum balance of \$1.5 million. This minimum balance policy will be revisited on an annual basis by the Affordable Housing Advisory Committee and City staff, in order to maintain flexibility in managing the Fund and to ensure the longevity of the Fund.
- i. For rental housing, the Housing Trust Fund may be used as gap financing for the acquisition, construction or rehabilitation of rental housing. The rental units shall remain affordable for a minimum period of 20 years or the life of the loan, whichever is longer.

F. AFFORDABLE HOUSING ADVISORY COMMITTEE

The City Council shall appoint a committee composed of public- and private-sector representatives to make recommendations to the Council for policies governing the expenditure of Housing Trust Fund monies and oversee the administration of the Fund. The City's Office of Housing will perform the day-to-day administration of the Housing Trust Fund, in accordance with the policy guidelines adopted by the City Council in this document, the City's Consolidated Plan for Housing and Community Development, and any other relevant documents. The Committee will include the Director of the Office of Housing, who will serve in a non-voting capacity. Representatives from the Department of Planning and Zoning and the Department of Human Services will attend Committee meetings on an as-needed basis. The composition of the Affordable Housing Advisory Committee will be as follows:

Voting Membership

The voting membership shall consist of 12 citizen members who shall be appointed by City Council as follows:

- one commissioner from the Alexandria Redevelopment and Housing Authority;
- one licensed and practicing attorney;
- one builder or developer of residential property;
- one real estate professional with knowledge and experience in residential real estate;
- one financial professional with knowledge and experience in the field of finance as it relates to residential housing;
- one landlord of residential property in the City;
- one residential tenant in the City;
- one homeowner in the City;
- one representative of the City's faith community;
- one representative of a civic association in the City;

one representative who is employed by or affiliated with an organization that promotes and maintains affordable housing; and
one representative of an employer in the City who employs at least 100 employees.

Non-Voting Advisory City Representatives

one representative from the Office of Housing;
one representative from the Department of Planning and Zoning (as needed); and
one representative from the Department of Human Services (as needed).

The committee's duties shall include the following:

- a. Oversee administration of the Housing Trust Fund;
- b. Update and recommend policies and goals to City Council in the context of the Consolidated Plan process;
- c. Actively seek and influence funding opportunities;
- d. Represent the interest of affordable housing before other City Boards and Commissions as needed;
- e. Review staff recommendations on affordable housing plans and modifications;
- f. Serve as the focus for housing advocacy in the City;
- g. Serve as a clearinghouse for identifying needs or as a facilitator to combine resources for more effective utilization of funds; and
- h. Serve as a depository and encourager of voluntary contributions to the Housing Trust Fund by individuals.

G. AFFORDABLE HOUSING PLAN

The City strongly prefers that developers submit a plan for providing affordable housing units in conjunction with any new property development, rather than providing the standard contribution (development fee) to the Housing Trust Fund. In that case, the project developer is required to submit an Affordable Housing Plan. The Affordable Housing Plan may suggest the development of affordable housing units at the site of the proposed development or at another site. Each affordable housing plan received by the City will be considered on a case-by-case basis within the guidelines of City zoning policy, with an understanding that the provision of affordable housing may be a desirable goal for the City but that other impacts must also be weighed along with the benefit.

An Affordable Housing Plan shall be prepared in a format determined by the City's Office of Housing.

Any approval of an affordable housing plan should include consideration of the following:

- a. How the plan helps the City meet its affordable housing goals;
- b. Proximity to commercial districts or public transportation; and
- c. The effect of the plan on neighboring communities.

A developer may seek the incentives listed below in return for providing affordable units either on-site or off-site, or by making additional contributions above the standard square foot charge to the Housing Trust Fund. All other factors being equal, contributions of on-site units are favored over both off-site units and monetary contributions to the Housing Trust Fund.

Applicability and Submission of Affordable Housing Plan

An Affordable Housing Plan shall be required in the following circumstances:

- the developer proposes to construct on-site or off-site affordable housing, either with or without making the recommended monetary contribution, or
- the developer desires incentives from the City. Examples of incentives that might be sought by a developer include:
 - bonus density on a residential project of up to 20% in return for provision of 12.5% of the total project units as affordable dwelling units;
 - reduced parking requirements;
 - setback and height restriction waivers;
 - utilization of Housing Trust Fund monies to subsidize construction of affordable units, provided that net affordable housing contributions are at least equal to the basic recommended square foot contribution;
 - fast track processing; or
 - forgiveness of the per square foot charge.

The Affordable Housing Plan (AHP) shall be filed, along with the application for Special Use Permit (SUP), when required, for all developments where an alternative to the square foot contribution is proposed and/or incentives are sought from the City. AHPs for developments not requiring an SUP shall be filed directly with the Office of Housing.

CITY INCOME, SALES PRICE AND RENT LIMITS

(Effective November 7, 2002)

1. **HOMEOWNERSHIP ASSISTANCE AND SET-ASIDE SALES UNIT PROGRAMS**

- a. Maximum income limits for City homeownership assistance programs:

Household Size	Maximum City Income Limit (City-established as of 11/7/02)
1 or 2 persons	\$68,700
3 or more persons	\$79,500

- b. Maximum Sales Price limit for City homeownership assistance programs (new or resale units):
\$225,000

2. **SET-ASIDE RENTAL UNIT PROGRAM AND ASSISTANCE TO RENTAL PROJECTS**

(These limits do not preclude the use of Housing Trust Fund monies for mixed income projects that include market rate units.)

- a. Maximum income limits for the Set-Aside Rental Unit Program (based on 60% of the Department of Housing and Urban Development's (HUD) Area Median Income):

Household Size	60% of Median Income (VHDA-established as of 1/31/02)
1	\$36,540
2	\$41,760
3	\$46,980
4	\$52,200
5	\$56,400
6	\$60,540
7	\$64,740
8+	\$68,880

- b. Maximum gross rent limits for the Set-Aside Rental Unit Program (based on the federal Low Income Housing Tax Credit Program rents allowed in the City of Alexandria for households at 60% of Area Median Income):

Unit Size	Gross Rent Limit (VHDA-established as of 1/31/02)
Efficiency	\$913
1-Bedroom	\$978
2-Bedroom	\$1174
3-Bedroom	\$1357
4-Bedroom	\$1513
5-Bedroom	\$1670

Set-Aside Sales Unit Program Policy

Effective June 2002

1. Purchasers of new set-aside sales units must have incomes within the City's maximum limits for homeownership programs and must have at least one household member who has lived or worked in the City of Alexandria for at least six months. The six-month provision has been waived in the Employer Assisted Housing (EAH) and Sponsoring Partnerships and Revitalizing Communities (SPARC) programs.
2. The sales price for new set-aside sales units shall not exceed the City sales price limit.
3. The following requirements shall govern the initial marketing of newly available affordable set-aside sales units:
 - a. From the time the developer begins to solicit potential buyers until 90 days after the date that the developer begins to write sales contracts at the development, the City, through its Office of Housing, shall have the exclusive right to refer qualified buyers for newly available set-aside sales units.
 - b. The City, at its sole discretion, may waive the exclusive referral period if it determines that marketing efforts by the developer are essential to the successful marketing of the set-aside units based on staff capacity, market conditions or other factors.
 - c. During the exclusive referral period, the City shall identify eligible buyers from among those who are compliant with the eligibility and counseling requirements of its Housing Assistance Program (HAP), Moderate Income Housing Program (MIHP), EAH and/or SPARC programs. During this period, eligible buyers may be identified by the developer and referred to the Office of Housing for participation in the City's homeownership counseling program, and possible referral back to the developer as a qualified buyer of a set-aside sales unit.
 - d. After the exclusive referral period ends, developers will be responsible for marketing any remaining set-aside sales units to buyers who meet the standard eligibility criteria for the set-aside unit program and for providing satisfactory documentation to the City.
4. For a minimum of fifteen years from the date of purchase, the following requirements shall govern the resale of affordable set-aside sales units:
 - a. For resale to qualified buyers:
 - i. The market value will be established by an appraisal, and the seller will reduce the price by the amount of the seller's original purchase discount.
 - ii. The price will be further reduced in an amount equal to the City's share of the appreciation defined as the percentage of the original market value

represented by the affordable housing discount, which the seller will repay by contributing it to the transaction as a City price write-down.

- iii. The sum of the seller's original purchase discount and the price write-down from the City (items
 - iv. i and ii above) will be treated as the new qualified buyer's purchase discount, in the event the new buyer sells during the period of time subject to the affordable housing covenants.
 - v. The seller's HAP or MIHP loan, if any, will be a further price write-down to the new buyer, and will become an obligation of the new buyer to be repaid to the City upon the next sale of the property.
 - vi. The unit must initially be marketed through the multiple listing service and for a period of six months (or 90 days if the move is necessitated by a job transfer or for medical reasons) from the date that a set-aside unit appears in the multiple listing service, it may only be sold to a City-eligible buyer at a City-eligible price. At the end of the required marketing period, the City shall have a right of first refusal to purchase, or designate a non-profit organization to purchase, the property at the qualified buyer price, for the purpose of retaining it as affordable housing. Once the marketing period has ended, should the City elect not to exercise its right of first refusal, the seller may then sell to a non-qualified buyer (see subsection b, below).
 - vii. On a case-by-case basis, the City may consider additional ("excess") HAP or MIHP subsidy to the new qualified buyer if the above actions do not result in an affordable purchase price.
- b. For resale to non-qualified buyers:
- i. The market value will be established by an appraisal, and the seller will market the unit with no restrictions on price.
 - ii. The seller's original purchase discount will be repaid to the Housing Trust Fund.
 - iii. The City, at its sole discretion, may forgo repayment of the original purchase discount, or a portion thereof, should it be determined that the attempt to sell the unit to a qualified buyer at the discounted price prevents the unit from being sold at market value after the end of the restricted marketing period
 - iv. The City's share of appreciation will be repaid to the Housing Trust Fund.
 - v. The seller will repay any HAP or MIHP loan to the City.
 - vi. The restrictions of the set-aside sales unit covenants shall be removed.
5. Owners of set-aside units purchased prior to June 2002 will be offered the opportunity (and will be strongly encouraged) to replace the existing set-aside sales unit covenants with new ones that impose the requirements in paragraph 4 above.